

Sec. 3. This Act, being deemed of immediate importance, takes effect from and after its publication in The Red Oak Express, a newspaper published in Red Oak, Iowa, and in The Hamburg Reporter, a newspaper published in Hamburg, Iowa.

Approved March 20, 1986

I hereby certify that the foregoing Act, Senate File 2152, was published in The Red Oak Express, Red Oak, Iowa, on April 22, 1986, and in The Hamburg Reporter, Hamburg, Iowa, on April 24, 1986.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1025

REMOVAL OF HAZARDOUS WASTES OR SUBSTANCES

S.F. 2166

AN ACT relating to the authority of the department of water, air and waste management to remove and compel removal of hazardous substances or hazardous wastes.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.381, subsection 2, Code 1985, is amended to read as follows:

2. "Hazardous condition" means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment. For purposes of this division, a site which is an abandoned or uncontrolled disposal site as defined in section 455B.411, subsection 1, is a hazardous condition.

Sec. 2. Section 455B.411, subsections 1 and 2, Code 1985, are amended to read as follows:

1. "Abandoned or uncontrolled hazardous waste disposal site" means real property which has been used for the disposal of hazardous waste or hazardous substances either illegally or prior to regulation under this chapter.

2. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste or hazardous substance into or on land or water so that the hazardous waste or hazardous substance or a constituent of the hazardous waste or hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Sec. 3. Section 455B.411, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 11. "Hazardous substance" means a hazardous substance as defined in 42 U.S.C. § 9601 of the federal Comprehensive Environmental Response, Compensation, and Liability Act and any element, compound, mixture, solution, or substance designated pursuant to 40 C.F.R. 302.4.

Sec. 4. Section 455B.412, subsection 2, Code 1985, is amended to read as follows:

2. Adopt rules establishing criteria for identifying the characteristics of hazardous wastes and listing hazardous wastes that are subject to ~~sections 455B.411 to 455B.421~~ this part. The commission shall consider toxicity, persistence and degradability in nature, potential for accumulation in tissue, and related factors including flammability, corrosiveness, and other hazardous characteristics.

Sec. 5. Section 455B.423, Code 1985, is amended to read as follows:

455B.423 HAZARDOUS WASTE SUBSTANCE REMEDIAL FUND.

1. A hazardous waste substance remedial fund is created within the state treasury. Moneys received from fees, penalties, general revenue, federal funds, gifts, bequests, donations, or other moneys so designated shall be deposited in the state treasury to the credit of the fund. Any unexpended balance in the hazardous waste remedial fund at the end of each fiscal year shall be retained in the fund. However, any unexpended balance shall be transferred to the general fund to replace funds appropriated from the general fund during fiscal year 1985 and fiscal year 1986 for the purposes for which expenditures from the hazardous waste remedial fund are allowed.

2. The executive director may use the fund for any of the following purposes:

a. Administrative services for the identification, assessment and cleanup of abandoned or uncontrolled sites.

b. Payments to other state agencies for services consistent with the management of abandoned or uncontrolled hazardous waste disposal sites.

c. Emergency response activities as provided in part 4 of this division.

d. Financing the nonfederal share of the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs, pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.

e. Financing the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs of abandoned or uncontrolled hazardous waste disposal sites that do not qualify for federal cost-sharing pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.

f. Through agreements or contracts with other state agencies, work with private industry to develop alternatives to land disposal of hazardous waste or hazardous substances including, but not limited to, resource recovery, recycling, neutralization, and reduction.

However, at least seventy-five percent of the fund shall be used for the purposes stated in paragraphs "d" and "e".

3. Neither the state nor its officers, employees, or agents are liable for an injury caused by a dangerous condition at an abandoned or uncontrolled site unless the condition is the result of gross negligence on the part of the state, its officers, employees, or agents.

4. The executive director may contract with any person to perform the acts authorized in this section.

5. Moneys shall not be used from the fund for abandoned site cleanup unless the executive director has made all reasonable efforts to secure voluntary agreement to pay the costs of necessary remedial actions from owners or operators of abandoned or uncontrolled hazardous waste disposal sites or other responsible persons.

6. The executive director shall make all reasonable efforts to recover the full amount of funds moneys expended from the fund through litigation or cooperative agreements with responsible persons. Moneys recovered pursuant to this subsection shall be deposited with the treasurer of state and credited to the hazardous waste remedial fund.

Sec. 6. Section 455B.425, Code 1985, is amended to read as follows:

455B.425 ANNUAL REPORT ON HAZARDOUS WASTE SUBSTANCE REMEDIAL FUND.

The executive director shall annually on January 1 give a full accounting of moneys received, moneys expended, sources and recipients, and purposes of the expenditures for the preceding fiscal year in the hazardous waste substance remedial fund to the general assembly and the governor.

Sec. 7. Section 455B.426, Code 1985, is amended to read as follows:

455B.426 REGISTRY OF ABANDONED OR UNCONTROLLED DISPOSAL SITES.

1. The executive director shall maintain and make available for public inspection a registry of confirmed abandoned or uncontrolled hazardous waste disposal sites in the state. The executive director shall take all necessary action to ensure that the registry provides a complete listing of all sites. The registry shall contain the exact location of each site and identify the types of waste found at each site.

2. The executive director shall investigate all known or suspected abandoned or uncontrolled disposal sites and determine whether each site should be included in the registry. In the evaluation of known or suspected abandoned or uncontrolled disposal sites, the executive director may enter private property and perform tests and analyses in the manner provided in section 455B.416.

Sec. 8. Section 455B.427, Code 1985, is amended to read as follows:

455B.427 ANNUAL REPORT ON ABANDONED OR UNCONTROLLED HAZARDOUS WASTE DISPOSAL SITES.

1. The executive director shall annually on January 1 transmit a report to the general assembly and the governor identifying all abandoned or uncontrolled hazardous waste disposal sites in the state listed on the registry. A copy of the report shall also be sent to the board of supervisors of every county containing a site.

2. The annual report shall include, but is not limited to, the following information for each site:

a. A general description of the site, including the name and address of the site, the type and quantity of the hazardous waste or hazardous substance disposed of at the site and the name of the current owners of the site.

b. A summary of significant environmental problems at or near the site.

c. A summary of serious health problems in the immediate vicinity of the site and health problems deemed by the executive director in cooperation with the state department of health to be related to conditions at the site.

d. The status of testing, monitoring, or remedial actions in progress or recommended by the executive director.

e. The status of pending legal actions and federal, state, or local government permits concerning the site.

f. The relative priority for remedial action at each site.

g. The proximity of the site to private residences, public buildings or property, school facilities, places of work, or other areas where individuals may be regularly present.

3. In developing and maintaining the annual report, the executive director shall assess the relative priority of the need for action at each site to remedy environmental and health problems resulting from the presence of hazardous wastes or hazardous substances at the sites. In making its assessments of relative priority, the executive director, in cooperation with the state department of health on matters relating to public health, shall place every site in one of the following classifications:

a. Causing or presenting an imminent danger of causing irreversible or irreparable damage to the public health or environment—immediate action required.

b. Significant threat to the environment—action required.

c. Not a significant threat to the public health or environment—action may be deferred.

d. Site properly closed—requires continued management.

e. Site properly closed, no evidence of present or potential adverse impact—no further action required.

4. A site classified as properly closed under subsection 3, paragraph "e", shall be removed from all subsequent annual reports and the register of abandoned or uncontrolled disposal sites.

5. The executive director shall work with the department of health when assessing the effects of an abandoned or uncontrolled disposal site on human health.

Sec. 9. Section 455B.428, Code 1985, is amended to read as follows:

455B.428 INVESTIGATION OF SITES.

1. The executive director shall investigate each abandoned or uncontrolled hazardous waste disposal site listed in the registry to determine its relative priority.
2. The executive director shall identify each abandoned or uncontrolled disposal site by providing all of the following:
 - a. The address and site boundaries.
 - b. The time period of use for disposal of hazardous waste or hazardous substances.
 - c. The name of the current owner and operator and names of reported owners and operators during the time period of use for disposal of hazardous waste or hazardous substances.
 - d. The names of persons responsible for the generation and transportation of the hazardous waste or hazardous substances disposed of at the site.
 - e. The type, quantity and manner of hazardous waste or hazardous substances disposal.
3. When preliminary evidence suggests further assessment is necessary, the executive director may assess any of the following:
 - a. The depth of the water table at the site.
 - b. The nature of soils at the site.
 - c. The location, nature, and size of aquifers at the site.
 - d. The direction of present and historic groundwater flows at the site.
 - e. The location and nature of surface waters at and near the site.
 - f. The levels of contaminants in groundwater, surface water, air, and soils at and near the site resulting from hazardous wastes or hazardous substances disposed of at the site.
 - g. The current quality of all drinking water drawn from or distributed through the area in which the site is located, if the executive director determines that water quality may have been affected by the site.
4. The executive director shall maintain a site assessment file for each site listed in the registry. The file shall contain all information obtained pursuant to this section and shall be open to the public. Information in the file may be reproduced by any person at a charge not to exceed the actual cost of reproduction for copies of file information.

Sec. 10. Section 455B.430, Code 1985, is amended to read as follows:

455B.430 USE AND TRANSFER OF SITES — PENALTY.

1. A person shall not substantially change the manner in which an abandoned or uncontrolled hazardous waste disposal site on the registry pursuant to section 455B.426 is used without the written approval of the executive director.
2. A person shall not sell, convey, or transfer title to an abandoned or uncontrolled hazardous waste disposal site which is on the registry pursuant to section 455B.426 without the written approval of the executive director. The executive director shall respond to a request for a change of ownership within thirty days of its receipt.
3. Decisions of the executive director concerning the use or transfer of an abandoned or uncontrolled hazardous waste disposal site may be appealed in the manner provided in section 455B.429.
4. If the executive director has reason to believe this section has been violated, or is in imminent danger of being violated, the executive director may institute a civil action in district court for injunctive relief to prevent the violation and for the assessment of a civil penalty not to exceed one thousand dollars per day for each day of violation. Moneys collected under this subsection shall be deposited in the hazardous waste remedial fund.

Sec. 11. Section 455B.431, Code 1985, is amended to read as follows:

455B.431 RECORDING OF SITE DESIGNATION.

When the executive director places a site on the registry as provided in section 455B.426, then the executive director shall file with the county recorder a statement disclosing the period during which the site was used as a hazardous waste or hazardous substances disposal area. When the executive director finds that a site on the registry has been properly closed under section 455B.427, subsection 3, paragraph "e", with no evidence of potential adverse impact, this finding shall be filed with the county recorder. The finding shall state that the executive director's finding does not warrant to a future purchaser of the site that the site will be free from any future adverse impacts as a result of use of the site as a hazardous waste or hazardous substances disposal site.

Approved March 20, 1986

CHAPTER 1026**AGRICULTURAL DEVELOPMENT AUTHORITY***H.F. 2351*

AN ACT relating to the Iowa family farm development authority, by changing the name of the authority to the agricultural development authority, by empowering the authority to undertake agricultural producer financial assistance programs, and providing for an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 175.2, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Agricultural producer" means a person engaged in the business of producing and marketing agricultural produce in this state.

Sec. 2. Section 175.2, subsections 3 and 14, Code Supplement 1985, are amended to read as follows:

3. "Authority" means the Iowa family farm agricultural development authority established in section 175.3.

14. "Note" means a bond anticipation note or other obligation or evidence of indebtedness issued by the authority pursuant to this chapter.

Sec. 3. Section 175.3, subsection 1, Code Supplement 1985, is amended to read as follows:

1. The Iowa family farm agricultural development authority is established, and constituted a public instrumentality and agency of the state exercising public and essential governmental functions. The authority is established to undertake programs which assist beginning farmers in purchasing agricultural land and agricultural improvements and depreciable agricultural property for the purpose of farming, and programs which provide financing to farmers for permanent soil and water conservation practices on agricultural land within the state or for the acquisition of conservation farm equipment. The authority shall also develop programs to assist qualified agricultural producers within the state with financing other capital requirements or operating expenses. The powers of the authority are vested in and exercised by a board of eleven members with nine members appointed by the governor subject to confirmation by the senate. The treasurer of state or the treasurer's designee and the secretary of agriculture or the secretary's designee are ex officio nonvoting members. No more than five appointed members shall belong to the same political party. As far as possible the governor